IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 23456 of 2007(P)

AGAINST THE ORDER IN IA Nos..599 & 600/2007 IN OS.162/2006 of MUNSIFF COURT, HOSDRUG

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PETITIONER:

PALLATTU FATHIMA ALIAS PATHUMMA,
KUNHAMMED HAJI,RESIDING AT ATHINHAL, ANJANUR VILLAGE, HOSDURG.

BY ADV. SRI.SUBHASH CYRIAC

RESPONDENT:

SHINY THANKAMANII,
D/O. CHANDRAN PILLAI,
RESIDING AT FLAT NO.Q1
IIIRD BLOCK, JEWEL SQUAR APPARTMENT,
PALARIVATOM, ERNAKULAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.23456 OF 2007

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Dated this the 1st day of August 2007

JUDGMENT

This writ petition is filed to set aside the order passed in I.A.Nos.599 & 600 of 2007 in O.S.No.162 of 2006. The defendant in the suit has filed an application to set aside the ex parte decree with a petition to condone the delay of 97 days that occurred in filing the petition. The petitioner's grievance was that she was not served with notice. Admittedly there was no personal service of notice. It was published in 'Deepika' daily and it appeared in the inner page containing the news of Kasargod District. Even according to the plaintiff, the defendant is a native of Kollam and is residing in Thiruvananthapuram. So, really there is no substituted service as contemplated under Order V Rule 20 of the Code of Civil Procedure. Therefore the court below was perfectly justified in arriving at that decision. When it is so, really there cannot be any delay. Even it is considered, there is only a delay of 97 days. The explanation tendered is just and proper.

Therefore I do not find any infirmity in the order of the court below and therefore it lacks merit and the same is dismissed. But it is made clear

that the court below shall bestow its best attention to dispose of the matter, as expeditiously as possible.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-